

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Crim. No. 11-023 (SRC)

v. : Hon. Stanley R. Chesler

NELSON OTERO and
MAXCIME CAGAN : ORDER

This matter having come before the Court on the joint application of the United States of America (Jacques S. Pierre and Lisa M. Colone, Assistant U.S. Attorneys, appearing), defendant Nelson Otero (Lorraine Gauli-Rufo and Peter Carter, Assistant Federal Public Defenders, appearing), and defendant Maxcime Cagan (Thomas Ambrosio, Esq., appearing), for an order pertaining to the transportation, examination, and oversight of certain pieces of ballistics evidence,

IT IS THE FINDING OF THIS COURT THAT:

1. Defense counsel have retained ballistics expert, Carl Leisinger, to examine and compare two shell casings recovered from the scene of the robbery of the Exxon Gas Station/Tiger Mart in Wayne, New Jersey, on May 10, 2010, with two shell casings test-fired from firearms recovered from the defendants;

2. The two shell casings recovered from the scene of the robbery are in the custody of the Federal Bureau of Investigation;

3. The two shell casings test-fired from firearms recovered from the defendants are in the custody of the New Jersey State Police, Ballistics Unit;

4. The Federal Bureau of Investigation has agreed to transport the two shell casings recovered from the scene of the robbery to Mr. Leisinger's office in Ewing, New Jersey, at a mutually convenient date and time, for Mr. Leisinger to conduct his examination and comparison, provided that: (a) the defendants waive any objections to the chain of custody of the above-listed items of evidence from the time they are provided to Mr. Leisinger through and including the time they are in his possession; and (b) the Federal Bureau of Investigation be permitted to observe Mr. Leisinger as he handles the above-listed items of evidence to ensure their safe-keeping; and

5. The New Jersey State Police, Ballistics Unit, has agreed to transport the two shell casings test-fired from firearms recovered from the defendants to Mr. Leisinger's office in Ewing, New Jersey, at a mutually convenient date and time, for Mr. Leisinger to conduct his examination and comparison, provided that: (a) the defendants waive any objections to the chain of custody of the above-listed items of evidence from the time they are provided to Mr. Leisinger through and including the time they are in his possession; and (b) the New Jersey State Police,

Ballistics Unit, be permitted to observe Mr. Leisinger as he handles the above-listed items of evidence to ensure their safe-keeping.

IT IS, THUS, ON this 30th day of January, 2012,

ORDERED that members of the Federal Bureau of Investigation and the New Jersey State Police, Ballistics Unit, will transport the two shell casings recovered from the scene of the robbery and the two shell casings test-fired from firearms recovered from the defendants, respectively, to Mr. Leisinger's office in Ewing, New Jersey, at a mutually convenient date and time, for Mr. Leisinger to conduct his examination and comparison;

IT IS FURTHER ORDERED that members of the Federal Bureau of Investigation and the New Jersey State Police, Ballistics Unit, will be permitted to observe Mr. Leisinger as he handles the above-listed items of evidence to ensure their safe-keeping; and

IT IS FURTHER ORDERED that defendants Nelson Otero and Maxcime Cagan hereby waive any objections to the chain of custody of the above-listed items of evidence from the time they are provided to Mr. Leisinger through and including the time they are in his possession, and they may not challenge the chain of custody as to these items on that basis at trial.

HON. STANLEY R. CHESLER
UNITED STATES DISTRICT JUDGE

Lorraine Gauli-Rufo, Esq.
Counsel to Nelson Otero

A handwritten signature in black ink, appearing to read 'Thomas Ambrosio', is written over a horizontal line.

Thomas Ambrosio, Esq.
Counsel to Maxcime Cagan

IT IS FURTHER ORDERED that defendants Nelson Otero and Maxcime Cagan hereby waive any objections to the chain of custody of the above-listed items of evidence from the time they are provided to Mr. Leisinger through and including the time they are in his possession, and they may not challenge the chain of custody as to these items on that basis at trial.



HON. STANLEY R. CHESLER
UNITED STATES DISTRICT JUDGE

Lorraine Gauli-Rufo, Esq.
Counsel to Nelson Otero

Thomas Ambrosio, Esq.
Counsel to Maxcime Cagan